

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ANDRE BARRY,

Plaintiff,

v.

Case No.: 2:19-cv-00510-JLB-NPM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

Upon consideration of the parties' responses to this Court's order from October 23, 2020 (Doc. 26), it is **ORDERED** that:

1. Plaintiff's Objections (Doc. 24) to the Magistrate Judge's September 28, 2020 Report and Recommendation (Doc. 23) are **OVERRULED without prejudice**.

2. In the interests of judicial efficiency, the case is **STAYED** pending the Eleventh Circuit's decisions in Perez v. Commissioner of Social Security, Appeal No. 19-11660 (filed Apr. 29, 2019), and Lopez v. Acting Commissioner of the Social Security Administration, Appeal No. 19-1174 (filed May 3, 2019). The parties are to advise this Court as soon as they learn that one or both appeals have been decided or if the Eleventh Circuit rules on the Appointments Clause issue presented in Perez and Lopez in another appeal.

3. The parties shall provide the Court with a joint status report regarding the Perez and Lopez appeals every 60 days beginning January 8, 2021.

4. The case is **ADMINISTRATIVELY CLOSED** for the Court's case management purposes only, without prejudice to the substantive rights of any of the parties to this litigation. The Court retains jurisdiction over the case, and any party may move to reopen the case and lift the stay at the appropriate time. Should no party move to reopen the case within 90 days from the entry of the mandate in Perez or Lopez, whichever is later, the Court may dismiss the case without prejudice without further notice to the parties.

5. All pending motions are **DENIED** as moot. When the Court is notified that the Perez and Lopez appeals have been decided or the issue presented in those cases is decided by the Eleventh Circuit, the stay will be promptly lifted; Plaintiff's Objections to the Report and Recommendation (Doc. 24) will be re-activated; and supplemental filings will be invited to address the effect of the Eleventh Circuit's disposition of Perez, Lopez, or any other Eleventh Circuit opinion reaching the Appointments Clause issue presented in Perez and Lopez.

ORDERED in Fort Myers, Florida, on November 3, 2020.

A handwritten signature in black ink, reading "John L. Badalamenti". The signature is written in a cursive, flowing style.

JOHN L. BADALAMENTI
UNITED STATES DISTRICT JUDGE